

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARK B. HARRIS,

Plaintiff,

v.

JOSEPH LEHMAN,

Defendant.

Case No. C05-5379RBL

ORDER DENYING PLAINTIFF'S
MOTIONS TO EXTEND
DISCOVERY AND STRIKE
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT AND
IMPOSING SANCTIONS

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Plaintiff has paid the full filing fee and is not proceeding *in forma pauperis*.

In January of 2006 the defendant moved to quash a deposition. (Dkt. # 9). Plaintiff responded and in that response asked to shift the costs of the deposition to defendant. (Dkt. # 11). In March, 2006 the court entered an order that denied both the motion to quash the deposition and the attempt to shift the costs for deposing defendant Lehman. (Dkt. # 15). Plaintiff moved for reconsideration and again attempted to shift discovery costs. (Dkt. # 16). His motion was denied. (Dkt. # 18).

Plaintiff then filed a motion seeking to shift the discovery costs for Defendant Lehman's

1 deposition, despite the fact that the court had twice denied the same request. (Dkt. # 20).
2 Defendant's counsel responded and noted the repeated rulings of the court. (Dkt. # 21). The court
3 entered an order denying plaintiff's motions and directing the plaintiff to show cause why sanctions
4 should not be imposed. (Dkt # 24). Plaintiff has not responded to the court's order and instead asks
5 that discovery be extended so he can take the deposition of Mr. Lehman that has been the subject of
6 motions since January of 2006. He also asks that defendants motion for summary judgment be
7 struck from the record. (Dkt. # 25 and 28).

8 Discovery in this action ended May 19th, 2006. (Dkt # 8). The motion to extend discovery
9 was not filed until June 13th, 2006 and is untimely. Further, plaintiff failed to properly set up or pay
10 for a deposition during the time frame discovery was open. Plaintiff was ordered to properly
11 conduct a deposition or consider other means of obtaining discovery. (Dkt. # 15 and 24). The
12 motion to extend discovery is **DENIED**.

13 The motion to strike defendant's motion for summary judgment is also **DENIED**. The
14 deadline for filing was June 23rd, 2006 and defendant Lehman filed his motion for summary judgment
15 on that date. (Dkt. # 27). Further, the sole reason for asking that the motion be struck is the fact that
16 defendant Lehman was not deposed. (Dkt. # 28).

17 Plaintiff did not respond to the court's order to show cause. Instead, in his motion to extend
18 discovery he states "[w]e did not respond to the Show Cause order because the person assisting me
19 was in jail for 30 days. And [sic] myself [sic] was at my commitment hearing from May 21st to May
20 31st. (Dkt. # 25).

21 The court gave plaintiff over one month to file a response to the order to show cause. (Dkt.
22 # 24). Plaintiff's ten day court appearance may have provided grounds for an extension of time but
23 is not an excuse for failure to respond or file a timely motion. Further, plaintiff is proceeding in this
24 action as the only plaintiff. Thus, there is no "we", in the action. Plaintiff has previously been
25 warned that he and he alone is responsible for his pleadings and there content. (Dkt. # 24).

26 Sanctions are clearly appropriate. The sanction will be a reimbursement of counsel's costs for
27 responding to plaintiff's improper motion. A third motion to shift costs after having a similar motion
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1 and a motion for reconsideration denied violates Rule 11. Counsel may submit a cost bill for the
2 time it took to prepare and file Dkt. # 21.

3 Counsel has until **July 28th, 2006** to submit the cost bill. Plaintiff has until **August 11th, 2006**
4 to file any objections he has to the cost bill. The court on its' own motion re-notes defendant's
5 motion for summary judgment for **August 25th, 2006**. This will allow the court to first consider the
6 issue of sanctions.

7 The clerk is directed to send copies of this Order to plaintiff, and counsel for defendant,
8 remove Dkt. # 25 and 28 from the court's calendar, and note the due dates of **July 28th, August**
9 **11th, and August 25th, 2006.** **Failure by any party to meet these time lines will result in the**
10 **court considering the failure to file as an admission under local rule 7 that the motion or filing**
11 **of the opposing party has merit. Appeal or a motion for reconsideration of this order will not**
12 **automatically stay the time lines imposed and the party seeking to extend any deadline in this**
13 **order must show good cause and file a timely motion.**

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15 DATED this 10th, day of July, 2006.

16 /s/ J. Kelley Arnold
17 J. Kelley Arnold
18 United States Magistrate Judge
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